

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

TONY J. PRICE

PLAINTIFF

VERSUS

NO. 1:15cv36-SA-DAS

**GREG ELDER and THE CITY OF
BALDWIN, MISSISSIPPI**

DEFENDANTS

JURY TRIAL DEMANDED

COMPLAINT

This is an action to recover actual and punitive damages for use of excessive force and arrest without probable cause in violation of the Fourth Amendment of the United States Constitution. The following facts support this action:

1.

Plaintiff TONY J. PRICE is an adult resident citizen of 425 South Second Street, Baldwin, Mississippi 38824.

2.

Defendant GREG ELDER (hereinafter “Defendant Elder”) is an adult resident citizen of Mississippi. Defendant Elder may be served with process by service upon him at 920 North Fourth Street, Baldwin, Mississippi 38824. At all relevant times, Defendant Elder was a police officer of the City of Baldwin, Mississippi.

Defendant CITY OF BALDWIN, MISSISSIPPI (hereinafter “Defendant City”) is a political subdivision of the State of Mississippi. Defendant City may be served with process by service upon its Mayor, Michael James, at 202 South Second Street, Baldwin, Mississippi 38824.

At all relevant times, all Defendants acted under color of state law.

3.

This Court has civil rights jurisdiction under 28 U.S.C. § 1343 and 42 U.S.C. § 1331, for violation of the Fourth Amendment to the United States Constitution, to address a cause of action authorized by 42 U.S.C. § 1983.

4.

For a substantial period of time, Defendant Elder, a police officer for the City of Baldwin, Mississippi, has held animosity against Plaintiff. Plaintiff believes that the animosity relates to Defendant Elder's unfounded belief that Plaintiff knows the whereabouts of an individual, Raymond Price, who is a suspect in a robbery. In fact, Plaintiff does not know the whereabouts of Price, and has not intentionally withheld any information from Defendant Elder.

5.

On or about May 16, 2013, Defendant Elder arrested Plaintiff for an alleged DUI, but told Plaintiff that he would be released if he would "come up with Raymond Price." Plaintiff had no means to find Price and was subsequently released from the city jail by paying a bond fee of \$10.00.

6.

Because Defendant Elder had persistently harassed Plaintiff, Plaintiff decided to go to the Mayor to complain. On or about May 30, 2013, Plaintiff was proceeding toward the Mayor's office when he was seen by Defendant Elder. Defendant Elder stopped Plaintiff and began questioning him about his purpose. Plaintiff told Defendant Elder that he was on his way to make a complaint to the Mayor about Defendant Elder's treatment of him.

7.

Provoked by Plaintiff's telling Defendant Elder that he was on the way to see the Mayor to complain, Defendant Elder handcuffed Plaintiff and threw him violently to the ground, causing him to incur immediate pain in his left shoulder. Plaintiff had subsequent treatment by a doctor at the emergency room and by Dr. Mitch Massey, who performed shoulder surgery on Plaintiff's left shoulder. Medical records pertaining to Plaintiff's May 31, 2013 treatment are attached hereto as Exhibit "A."

8.

The force used against Plaintiff on May 30, 2013 was excessive and has resulted in excruciating pain, mental anxiety and stress, and surgery.

9.

The actions by Defendant Elder were outrageous, such that punitive damages are due.

10.

Under the terms of the Mississippi Tort Claims Act, it is the intent of the Mississippi legislature that a municipality, the City of Baldwin, Mississippi, indemnify Defendant Elder for the injuries inflicted in the course and scope of his employment. For the purpose of the Mississippi Tort Claims Act, the injuries were inflicted in the course and scope of Defendant Elder's employment as a police officer for the City of Baldwin, Mississippi. Accordingly, Defendant Elder's is entitled to indemnification from the City of Baldwin.

11.

Plaintiff has suffered mental anxiety and stress as a result of Defendants' actions.

REQUEST FOR RELIEF

Plaintiff requests actual and punitive damages against Defendant Elder in an amount to be determined by a jury, the Court enter an Order that the Defendant Baldwin indemnify Defendant Elder, and for reasonable attorneys' fees and costs.

Respectfully submitted, this the 13th day of February, 2015.

Respectfully submitted,

WAIDE & ASSOCIATES, P.A.

BY: /s/ JIM WAIDE

JIM WAIDE

MS BAR NO. 6857

WAIDE & ASSOCIATES, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1357
TUPELO, MISSISSIPPI 38802
TELEPHONE: 662-842-7324
FACSIMILE: 662-842-8056
EMAIL: waide@waidelaw.com

Attorneys for Plaintiff